Councilmember Anita Bonds

Councilmember Charles Allen

Councilmember Jack Evans

Councilmember David Grosso

Councilmember Vincent C. Gray

Councilmember Robert C. White, Jr.

Councilmember Kenyan R. McDuffie

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Health Occupations Revision Act of 1985 and Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code to remove barriers to obtaining occupational licenses for individuals with criminal histories, to allow a licensing board to consider an applicant's pending criminal accusation or prior conviction only if the pending criminal accusation or prior conviction is directly related to the occupation for which the license is sought, and to provide applicants, licensees, registrants, or persons certified whose applications or licenses, registrations, or certifications are denied, suspended, or revoked based on a pending criminal accusation or conviction with notice of the basis of the decision and an opportunity to provide mitigating evidence.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Removing Barriers to Occupational Licenses Amendment Act of 2017".

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1201.01 *et seq.),* is amended as follows:

(a) Section 503(a)(1) (D.C. Official Code § 3-1205.03(a)(1)) is repealed.

(b) A new section 503a is added to read as follows:

41 "Sec. 503a. Criminal history inquiries.

42 "(a) The board regulating the health occupation shall not inquire into the criminal history
43 of an applicant on the application for a license under this subchapter.

44 "(b) The board regulating the health occupation shall not inquire into or consider the
45 criminal history of an applicant until after the applicant is found to be otherwise qualified for the
46 license under this title.

47 "(c) The board regulating the health occupation shall not at any time consider, use, or
48 disseminate the following information in connection with an application for a license:

49 "(1) An arrest that did not result in a conviction;

50 "(2) A criminal accusation made against the applicant that is not then pending or
51 did not result in a conviction;

52 "(3) A conviction that has been dismissed through a deferred sentencing agreement
53 or otherwise;

54 "(4) A conviction that has been sealed, expunged, vacated, or pardoned;

55 "(5) A juvenile adjudication; and

56 "(6) A conviction that is not directly related to the occupation for which a license
57 is being sought, as determined under subsection (d) of this section.

58 "(d) The board regulating the health occupation must consider the following factors to
59 determine whether a conviction is directly related to the occupation for which the license is sought:

60 "(1) The District's legitimate interest in equal access to employment for individuals
61 who have had past contact with the criminal justice system;

62 "(2) Whether the elements of the offense or offenses are directly related to the
63 specific duties and responsibilities of the occupation;

64 "(3) Whether the occupation for which the license is sought offers the opportunity
65 for the same or a similar offense to occur; and
66 "(4) Any information produced by the applicant concerning his or her rehabilitation
67 and fitness, including:
68 "(A) Evidence showing that at least one year has elapsed since release from
69 any correctional institution without subsequent conviction for a crime;
70 "(B) Evidence showing compliance with all terms and conditions of
71 probation, supervised release, and parole;
72 "(C) Circumstances relative to the offense, including mitigating
73 circumstances;
74 "(D) Age of the applicant at the time the offense was committed;
75 "(E) Length of time that has elapsed since the offense was committed;
76 "(F) Evidence of work history, particularly any training or work experience
77 related to the occupation in question; and
78 "(G) Letters of reference.
79 "(e) After an applicant is found to be otherwise qualified for the license under this
80 subchapter, the board regulating the health occupation may consider an applicant's criminal
81 history, except for the information described in subsection (c) of this section, which the board
82 finds, pursuant to subsection (d) of this section, to be directly related to the occupation for which
83 the license is sought.".
84 (c) Section 514 (D.C. Official Code § 3-1205.14) is amended as follows:
85 (1) Subsection (a)(4) is amended to read as follows:

86 "(4) Has a pending criminal accusation or conviction into which the board
87 regulating the health occupation is permitted to inquire and consider pursuant to section 503a.".
88 (2) New subsections (f), (g), (h), and (i) are added to read as follows:
89 "(f) If the board regulating the health occupation intends to deny, suspend, or revoke a
90 license, registration, or certification, because of a criminal history, the board shall notify the
91 applicant, licensee, registrant, or person certified in writing prior to a final decision with the
92 following:
93 "(1) The offense that forms the basis for the potential denial, suspension, or
94 revocation, and the rationale for deeming the offense directly related;
95 "(2) A copy of any criminal record on which the board relies;
96 "(3) A statement that the applicant, licensee, registrant, or person certified may
97 provide evidence demonstrating inaccuracies within the applicant's criminal record;
98 "(4) Examples of additional information that the applicant, registrant, or person
99 certified may produce to demonstrate his or her rehabilitation and fitness; and
100 "(5) Information about the right to request a hearing under section 519 of this
101 subchapter and the process for making this request.
102 "(g) After receiving the notice of potential denial, suspension, or revocation under
103 subsection (f) of this section, the applicant, licensee, registrant, or person certified shall have 30
104 business days to respond. The board regulating the health occupation shall make the final decision
105 based on an individualized assessment of the information provided by the applicant, licensee,
106 registrant, or person certified under subsection (f) of this section.

107 "(h) If the board regulating the health occupation denies, revokes, or suspends a license,
108 registration, or certificate, solely or in part because of a criminal history, the board shall provide
109 the applicant, licensee, registrant, or person certified in writing with the following:
110 "(1) The offense that forms the basis for the denial, suspension, or revocation, and
111 the rationale for deeming the conviction to be directly related; and
112 "(2) The process for judicial review under section 520 of this subchapter.
113 "(i) Each board regulating a health occupation, before March 1 of each year, shall submit
114 a report to the Mayor and the Council of its activities during the preceding fiscal year. The report
115 shall include:
116 "(1) The total number of applications received for each type of license;
117 "(2) The number of successful applications for each type of license;
118 "(3) The total number of applicants from whom the board obtained criminal history
119 information;
120 "(4) The number of applicants from whom the board obtained criminal history
121 information that were successful in obtaining licenses;
122 "(5) The number of notices of intent to deny, suspend, or revoke issued;
123 "(6) The number of hearings following a notice of intent to deny, suspend, or
124 revoke; and
125 "(7) A statement on the board's efforts to facilitate equal access to licenses for
126 applicants with a criminal history, in light of the District's public policy to promote employment
127 opportunities for people with prior contact with the criminal justice system.".
128 Sec. 3. Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code
129 is amended as follows:

130 (a) Section 47-2853.12(a)(1) is repealed.

131 (b) A new section 47-2853.12a is added to read as follows:

132 "§ 47-2853.12a. Criminal history inquiries.

133 "(a) The board regulating the non-health related occupation shall not inquire into the
134 criminal history of an applicant on the application for a license under this subchapter.

135 "(b) The board regulating the non-health related occupation shall not inquire into or
136 consider the criminal history of an applicant until after an applicant is found to be otherwise
137 qualified for the license under subsection (a) of this section.

138 "(c) The board regulating the non-health related occupation shall not at any time consider,
139 use, or disseminate the following information in connection with an application for a license:

140 "(1) An arrest that did not result in a conviction;

141 "(2) A criminal accusation made against the applicant that is not then pending or
142 did not result in a conviction;

143 "(3) A conviction that has been dismissed through a deferred sentencing agreement
144 or otherwise;

145 "(4) A conviction that has been sealed, expunged, vacated, or pardoned;

146 "(5) A juvenile adjudication; and

147 "(6) A conviction that is not directly related to the occupation for which a license
148 is being sought, as determined under subsection (d) of this section.

149 "(d) The board regulating the non-health related occupation must consider the following
150 factors to determine whether a conviction is directly related to the occupation for which the license
151 is sought:

152 "(1) The District's legitimate interest in equal access to employment for individuals
153 who have had past contact with the criminal justice system;
154 "(2) Whether the elements of the offense or offenses are directly related to the
155 specific duties and responsibilities of the occupation;
156 "(3) Whether the occupation for which the license is sought offers the opportunity
157 for the same or a similar offense to occur; and
158 "(4) Any information produced by the applicant concerning his or her rehabilitation
159 and fitness, including:
160 "(A) Evidence showing that at least one year has elapsed since release from
161 any correctional institution without subsequent conviction of a crime;
162 "(B) Evidence showing compliance with all terms and conditions of
163 probation, supervised release, and parole;
164 "(C) Circumstances relative to the offense, including mitigating
165 circumstances;
166 "(D) Age of the applicant at the time the offense was committed;
167 "(E) Length of time that has elapsed since the occurrence of the offense;
168 "(F) Evidence of work history, particularly any training or work experience
169 related to the occupation in question; and
170 "(G) Letters of reference.
171 "(e) After an applicant is found to be otherwise qualified for the license under this
172 subchapter, the board regulating the non-health related occupation may consider an applicant's
173 criminal history, excluding any information prohibited by subsection (c) of this section, which the

174 board finds pursuant to subsection (d) of this section to be directly related to the occupation for
175 which the license is sought.".
176 (c) Section 47-2853.17 is amended as follows:
177 (1) Subsection (a)(5) is amended to read as follows:
178 "(5) Has been convicted of a crime into which the board regulating the non-health
179 related occupation is permitted to inquire and consider under § 47-2853.12a.".
180 (2) Subsection (c-1) is repealed.
181 (3) Subsection (c-2) is amended to read as follows:
182 "(c-2) If the board regulating the non-health related occupation intends to deny, suspend,
183 or revoke a license, registration, or certificate because of a criminal history, the board regulating
184 the non-health related occupation shall notify the applicant, licensee, registrant, or person certified
185 in writing prior to a final decision with the following:
186 "(1) The offense that forms the basis for the potential denial, suspension, or
187 revocation, and the rationale for deeming the offense directly related;
188 "(2) A copy of the criminal record on which the board relies;
189 "(3) A statement that the applicant, registrant, or person certified may provide
190 evidence demonstrating inaccuracies within the applicant's criminal record;
191 "(4) Examples of additional information that the applicant, registrant, or person
192 certified may produce to demonstrate his or her rehabilitation and fitness; and
193 "(5) Information about the right to request a hearing under § 47-2853.22 and the
194 process for making this request.".
195 (4) New subsections (c-3), (c-4), and (c-5) are added to read:

196 "(c-3) After receiving the notice of potential denial, suspension, or revocation under
197 subsection (c-2) of this section, the applicant, licensee, registrant, or person certified shall have 30
198 business days to respond. The board regulating the non-health related occupation shall make the
199 final decision based on an individualized assessment of the information provided by the applicant,
200 licensee, registrant, or person certified under subsection (c-2) of this section.

201 "(c-4) If the board regulating the non-health related occupation denies, suspends, or
202 revokes a license, registration, or certificate because of a criminal history, the board shall provide
203 the applicant, licensee, registrant, or person certified in writing with the following:

204 "(1) The offense that forms the basis for the denial, suspension, or revocation, and
205 the rationale for deeming the conviction to be directly related; and

206 "(2) The process for judicial review under § 47-2853.23.

207 "(c-5) Each board regulating a non-health related occupation, before March 1 of each year,
208 shall submit a report to the Mayor and the Council of its activities during the preceding fiscal year.
209 The report shall include:

210 "(1) The total number of applications received for each type of license;

211 "(2) The number of successful applications for each type of license;

212 "(3) The total number of applicants from whom the board obtained criminal history
213 information;

214 "(4) The number of applicants from whom the board obtained criminal history
215 information that were successful in obtaining licenses;

216 "(5) The number of notices of intent to deny, suspend, or revoke issued;

217 "(6) The number of hearings following a notice of intent to deny, suspend, or
218 revoke; and

219 "(7) A statement on the board's efforts to facilitate equal access to licenses for
220 applicants with a criminal history, in light of the District's public policy to promote employment
221 opportunities for people with prior contact with the criminal justice system.".

222 Sec. 4. Fiscal impact statement.

223 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
224 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
225 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

226 Sec. 5. Effective date.

227 This act shall take effect following approval by the Mayor (or in the event of veto by the
228 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
229 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
230 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of
231 Columbia Register.